

Fund for Public Interest Research, Inc.  
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Federal Trade Commission  
VIA E-MAIL  
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To the Commission:

The Fund for Public Interest Research, Inc., a nonprofit organization exempt from taxation under section 501(c)(4) of the Internal Revenue Code whose purpose is to aid and enable other nonprofit organizations in furthering their missions, respectfully submits this comment with regard to the FTC's proposed changes to the Telemarketing Sales Rule, 16 CFR Part 310.

The amendments would, in part, create a national "do not call" registry whereby consumers could prevent all fundraising and telemarketing calls from companies within the FTC's jurisdiction by registering with a central "do not call" list maintained by the FTC. The proposed rule impacts for-profit companies who make fundraising calls on behalf of non-profit organizations.

The proposed rule would have a direct negative impact on charitable organizations, many or most of which contract with for-profit companies to make fundraising telephone calls to consumers. Telephone fundraising is an effective, and essential, means by which charitable organizations can alert the general public to issues and causes of both local and national concern, increase organizational membership, and raise funds to help charitable organizations to further their goals. In so doing, charitable organizations raise funds not only for themselves, but also for causes, programs, and direct actions that improve our society and our world. And often, the general public is not even aware of the existence, much less the mission, of a charitable organization they might strongly wish to support until they receive a telephone call from or on behalf of the organization to their own homes. To put these organizations within the purview of a national "do not call" registry would all but guarantee that many citizens would never even learn that they exist.

If the proposed rule is enacted, for-profit organizations that serve a largely administrative function—raising funds for nonprofit organizations—will be treated the same as any for-profit company selling a consumer product over the telephone. This would be a tremendous disservice to charitable organizations. Charitable organizations, and the for-profit corporations raising funds on their behalf, are not selling consumer goods. Rather, they are raising funds for the betterment of society as a whole. Charities

exist for a range of reasons and serve a wide variety of causes—to support a cleaner environment, to find cures for and provide information about diseases, to protect consumers, to promote and improve our democracy. But each raises funds to enable itself not to make a profit, but to benefit the public through furtherance of its charitable goals. An acceptable, and fair, rule would regulate for profit commercial telemarketing, but exempt fundraising on behalf of nonprofit groups by both for-profit and non-profit organizations.

Both small and large organizations would be negatively affected by the rule. Small organizations typically have neither the staff, expertise, nor infrastructure to run their own telephone fundraising operations. Therefore, their ability to raise funds from the general public, already limited due to lack of resources, would be further hampered. Larger organizations would have to significantly expand other fundraising efforts, as well as develop the institutional ability to successfully run their own fundraising operations, or face a significant drop in support from the general public. This reallocation of resources could take both time and staff away from furtherance of the organizations' underlying charitable programs and mission.

Non-profit charitable organizations are, and would continue to be, exempt from the rule. However, the promulgation of the rule itself potentially endangers the ability of nonprofit organizations to even do their own telephone fundraising by themselves. It is only a short conceptual leap from the idea that for-profit companies raising funds on behalf of nonprofit organizations should be subject to the national “do not call” registry, to the idea that nonprofit organizations themselves should be subject to such a registry. After all, the purpose and methods of the fundraising—to raise awareness about, and money for, nonprofit groups by telephone calls to the public—are exactly the same. And it is only a matter of time, if the proposed rule is passed, until this artificial distinction is noted and so eliminated from the rule.

The rule would also provide that predictive dialers resulting in “dead air” violate the rule, essentially, under currently available technology, severely limiting the use of such predictive dialers. Predictive dialers are an effective and efficient means of conducting telephone fundraising. The minor annoyance of “dead air” is a very small price to pay for the greater good of enabling charitable organizations to further their missions and improve our society.

For the above reasons, the Fund for Public Interest Research, Inc. respectfully requests that the proposed rule not be enacted.